COMMISSION REGULATION (EC) No 2808/98

of 22 December 1998

laying down detailed rules for the application of the agrimonetary system for the euro in agriculture

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2799/98 of 15 December 1998 establishing the agrimonetary arrangements for the euro [1], and in particular Article 9 thereof,

Whereas Regulation (EC) No 2799/98 establishes new agrimonetary arrangements following the introduction of the euro; whereas Commission Regulation (EEC) No 1068/93 of 30 April 1993 on detailed rules for determining and applying the agricultural conversion rates [2], as last amended by Regulation (EC) No 961/98 [3], and Commission Regulation (EC) No 805/97 of 2 May 1997 laying down detailed rules for compensation relating to appreciable revaluations [4], as amended by Regulation (EC) No 1425/98 [5], must be radically amended to bring them into line with Regulation (EC) No 2799/98; whereas, in order to facilitate implementation of the new agrimonetary arrangements, the Regulations in question should be repealed and the relevant provisions should be included in a new Regulation;

Whereas it is necessary to establish the operative events for the exchange rates applicable, without prejudice to any specific definitions or exemptions provided for in the rules for the sectors concerned on the basis of the criteria mentioned in Article 3 of Regulation (EC) No 2799/98;

Whereas for all the prices or amounts involved in trading transactions the acceptance of the customs declaration represents a suitable operative event; whereas in the case of prices and amounts linked to those prices the commercial objective of buying or selling operations is attained when the product is paid for or taken over and, in the case of withdrawal operations by producer groups, on the first day of the month concerned; whereas, in the case of aid paid for a given quantity of product and in particular where the aid is granted subject to a specific use of that product such as its processing, preservation, packaging or consumption, the commercial objective is attained when the product is taken over by the relevant operator and, where applicable, when the particular use of that product is guaranteed; whereas, in the case of private storage aid, products are no longer available on the market from the first day for which the aid is granted;

Whereas, in the case of aid granted per hectare, the commercial objective is attained when the product is harvested, usually at the beginning of the marketing year; whereas the operative event for structural aid should be established at 1 January;

Whereas, for amounts not linked to the market prices of agricultural products, the operative event can be established as a date to be determined on the basis of the period during which the operation occurs; whereas it should be stated that the operative event applicable for the recording of prices or offers on the market is to occur on the day on which the prices or offers themselves are applicable; whereas, in the case of advances and securities, the exchange rate must approximate to that applicable to the prices or amounts in question where this is known at the time the advances or securities are paid;

Whereas Regulation (EC) No 2799/98 allows Member States to grant compensation to farmers who have suffered the effects of an appreciable revaluation or an actual reduction in direct aid; whereas that Regulation lays down certain conditions for granting compensation and its phasing over time, and indicates the method for determining the maximum amount that may be allocated by a Member State; whereas the compensation concerned is partly financed by the Community budget;

Whereas it is necessary to define the operative event that determines the exchange rate used to convert amounts expressed in euros into the national currencies of the Member States; whereas, to facilitate financial management, the payment of more than one annual instalment of compensation in the same budget year should be avoided; whereas, to take account of the European Community's international commitments, and in the interests of administrative transparency, the procedures to be followed by Member States wishing to grant compensation should be laid down;

Whereas, in order to fulfil its purpose, the compensation must be granted directly to the beneficiaries, in principle farmers, within a fixed period and for amounts not

[1] See page 1 of this Official Journal.
[2] OJ L 108, 1. 5. 1993, p. 106.
[3] OJ L 135, 8. 5. 1998, p. 5.
[4] OJ L 115, 3. 5. 1997, p. 13.
[5] OJ L 190, 4. 7. 1998, p. 16.

exceeding the income losses concerned; whereas, however, to avoid administrative complications arising from the grant of small amounts to beneficiaries, simplified procedures may be used in certain cases;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the relevant management committees,

HAS ADOPTED THIS REGULATION:

TITLE I

Exchange rate and operative events

Article 1

The exchange rate to be used shall be the rate most recently fixed by the European Central Bank (ECB) prior to the operative event.

Article 2

The operative event for the exchange rate for prices and amounts fixed in euros in Community legislation and to be applied in trade with third countries shall be the acceptance of the customs declaration.

Article 3

1. For prices or, without prejudice to Article 1 and paragraph 2 of this Article, amounts linked to those prices,

— fixed in ecus in Community legislation,

or

— fixed in euros by a tendering procedure,

the operative event for the exchange rate shall be:

— in the case of purchases or sales, the taking over by the purchaser of the batch of products concerned or the transfer of the first payment, whichever is earlier,

— in the case of withdrawals of products in the fruit and vegetable or fishery product sectors, the first day of the month in which the withdrawal takes place.

For the purposes of this Regulation, for purchases by intervention agencies, taking over shall be the commencement of physical delivery of the batch concerned or, where there is no physical movement, provisional acceptance of the seller's tender.

2. For aid granted by quantity of marketed product or by quantity of product to be used in a specific way, the operative event for the exchange rate shall be the first operation which:

— guarantees the appropriate use of the products in question and entails grant of the aid,

and

— occurs on or after the date of taking over of the products by the operator concerned and, where appropriate, before the date of specific use.

3. For private storage aid the operative event for the exchange rate shall be the first day in respect of which the aid relating to a particular contract is granted.

Article 4

1. Notwithstanding paragraph 2, in the case of aid per hectare the operative event for the exchange rate shall be the commencement of the marketing year in respect of which the aid is granted.

2. In the case of amounts of a structural or environmental character, in particular those granted under environmental protection, early retirement or afforestation schemes, the operative event for the exchange rate shall be 1 January of the year during which the decision to grant the aid is taken.

However, in cases where, under Community rules, payment of the amounts referred to in the first subparagraph is staggered over several years, the annual instalments shall be converted using the exchange rate applicable on 1 January of the year for which the instalment in question is paid.

Article 5

1. For costs of transport, processing or, without prejudice to Article 3(3), storage and for amounts allocated to studies or promotional measures, determined under a tendering procedure, the operative event for the exchange rate shall be the final day for the submission of tenders.

2. For the recording of prices, amounts or tenders on the market, the operative event for the exchange rate shall be the day in respect of which the price, amount or tender is recorded.

3. For advances:

(a) the operative event for the exchange rate shall be:

— the event applicable to the price or amount to which the advance relates, where this event has occurred by the time the advance is paid,

or

— in other cases, the date of fixing in euros of the advance or, failing that, the date of payment of the advance;

(b) the operative event for the exchange rate shall be applied without prejudice to application to the entire price or amount in question of the operative event determined for that price or amount.

4. The operative event for the exchange rate for securities shall be, for each separate operation:

— for advances, that defined for the amount of the advance, where this event has occurred by the time the security is paid,

— for the submission of tenders, the day on which the tender is submitted,

— for the execution of tenders, the closing date of the invitation to tender,

— in other cases, the date on which the security takes effect.

TITLE II

Compensation for appreciable revaluations

Article 6

1. This Title lays down the detailed rules for granting the compensatory aid referred to in Article 4 of Regulation (EC) No 2799/98.

2. The maximum amounts of compensatory aid shall be determined in accordance with Article 4(2) of Regulation (EC) No 2799/98.

Article 7

1. Without prejudice to Article 9:

(a) Member States may grant compensatory aid only by means of payments to beneficiaries and without conditions relating to its use;

and

(b) compensatory aid may be granted only to agricultural holdings, the definition of an agricultural holding being established by the Member State concerned on the basis of objective criteria.

2. The maximum level of the aid shall be converted into national currency using the average exchange rate for the year in which the appreciable revaluation occurred.

Article 8

1. The amount of compensatory aid granted to the beneficiary shall be linked to the size of the holding during a period to be stipulated in each case, according to the criteria laid down in the second subparagraph of Article 4(1) of Regulation (EC) No 2799/98.

In determining the size of the holding, account shall be taken only of the types of production referred to in point (1)(a) of the Annex to the said Regulation.

Member States may set minimum holding sizes only to the extent necessary to facilitate administration of the compensatory aid.

2. In all cases, the compensatory aid must be compatible with the international commitments of the Community.

Article 9

1. Where the amount of compensatory aid which is to be granted for any annual instalment divided by the estimated number of agricultural holdings concerned is below EUR 400, that amount may be granted for measures concerning the agricultural sector:

— which are collective and of general interest,

or

— for which Community provisions allow Member States to grant national aid, provided the intensities under the State aid policy are respected.

2. To be eligible for Community finance the measures shall be additional, either by their nature or in terms of aid intensity, to those which the Member State would have applied in the absence of the aid, and shall not benefit from other Community financing.

TITLE III

Compensation for reductions in the exchange rates applied to direct aid

Article 10

1. This Title lays down the detailed rules for granting the compensatory aid referred to in Article 5 of Regulation (EC) No 2799/98.

2. The maximum amounts of compensatory aid shall be determined in accordance with Article 5(2) of Regulation (EC) No 2799/98.

If, for the amounts mentioned in paragraph 3 of the present Article, an amount fixed in national currency is lower than the ceiling, a reduction of the ceiling which does not affect the fixed amount is not to be considered as a reduction.

3. For the purposes of Article 5 of Regulation (EC) No 2799/98, amounts of a structural or environmental character that are not:

— flat-rate aid fixed per hectare or per livestock unit,

or

— a compensatory premium per ewe or she-goat,

shall be those financed from the EAGGF Guidance Section or the Financial Instrument for Fisheries Guidance (FIFG), those referred to in Council Regulation (EEC) No 1992/93 [1] or those fixed in Council Regulations (EEC) No 2078/92 [2], (EEC) No 2079/92 [3] or (EEC) No 2080/92 [4].

4. The compensatory aid shall be granted for the 12-month period preceding the respective application of the reduced exchange rate.

5. Member States may grant compensatory aid only by means of additional payments to beneficiaries of aid as referred to in Article 5 of Regulation (EC) No 2799/98. They may not impose conditions as to the use of such payments.

6. The maximum level of aid shall be converted using the exchange rate which gave rise to that amount.

TITLE IV

General provisions

Article 11

1. The application for authorisation to grant compensatory aid as referred to in Titles II and III shall be submitted to the Commission by the Member State concerned before the end of the third month following that in which the appreciable revaluation or the reduction concerned occurred. The application must include sufficient information for the Commission to check the compatibility of the measure with the rules as provided in paragraph 2.

2. In accordance with the procedure laid down in Article 93(3) of the Treaty and with this Regulation, the Commission shall check the compatibility of the aid applications with the rules in force concerning compensation for appreciable revaluations and for reductions.

3. The total amount of compensatory aid granted must be proportionate to the loss affecting each sector in the Member State concerned. How the aid is distributed within a given sector must not alter the conditions of competition to an extent detrimental to the common interest.

4. The Commission may take up to two months from the date of receipt of the full application referred to in paragraph 1 to approve the compensatory aid. If the Commission has not delivered an opinion within that period, the measures planned may be implemented provided that the Member State gives the Commission prior notification of its intention.

5. Any Member State intending to grant compensatory aid shall adopt the necessary national measures within three months of the date of the Commission decision or the prior notification by the Member State provided for in paragraph 4.

Article 12

1. Payment to the same beneficiary of an amount of the same compensatory aid instalment may not be made during the same budget year as payment of the corresponding amount of another instalment.

2. Payment of the amount of the first instalment of compensatory aid as referred to in:

— Title II shall be made within one year following the date of the appreciable revaluation which gave entitlement to the aid concerned,

— Title III shall be made within a period beginning on the date of the operative event and ending:

  — 18 months later in the case of recipients of a cattle premium,

  — 12 months later in the case of recipients of amounts of a structural or environmental character, or

  — nine months later in the case of recipients of other direct aid as referred to in Article 5(1) of Regulation (EC) No 2799/98.

3. The time limits referred to in Article 11(1) and (5) and in paragraph 2 of this Article may be amended by the Commission at the duly justified request of Member States.

4. The Commission shall have two months in which to approve the measures referred to in Article 8 of Regulation (EC) No 2799/98 from the date of receipt of such measures envisaged by a non-participating Member State. If the Commission fails to deliver an opinion within that time the measures may be implemented provided that the Commission has been notified in advance by the Member State.

Article 13

Every year the Member State concerned shall submit to the Commission a report on the implementation of the compensatory aid measures, giving details of the amounts paid out. The first of these reports shall be submitted not later than 18 months after the decision or the notification by the Member State referred to in Article 11(4).

[1] OJ L 182, 24. 7. 1993, p. 12.
[2] OJ L 215, 30. 7. 1992, p. 85.
[3] OJ L 215, 30. 7. 1992, p. 91.
[4] OJ L 215, 30. 7. 1992, p. 96.

Article 14

Amounts quoted in tenders submitted in response to invitations to tender organised under an instrument forming part of the common agricultural policy shall, with the exception of amounts the Community contribution to which is financed from the EAGGF Guidance Section, be expressed in euros.

Article 15

1. The percentage of appreciability of an appreciable revaluation and the reduction in the exchange rate shall be expressed to three decimal places, the third decimal being rounded off. The average annual exchange rate shall be established to six significant figures, the sixth figure being rounded off.

2. For the purposes of this Regulation 'significant figures' means:

— all figures, in the case of a number whose absolute value is greater than or equal to 1,

or

— all decimal places starting from the first one which is not zero, in other cases.

The roundings-off referred to in this Article shall be effected by increasing the figure concerned by one unit in cases where the following figure is greater than or equal to five and by leaving it unchanged in other cases.

Article 16

Regulations (EEC) No 1068/93 and (EC) No 805/97 are hereby repealed

Article 17

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

It shall apply from 1 January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 December 1998.

For the Commission

Franz FISCHLER

Member of the Commission